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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,737	06/16/2005	Jurgen Wilhelm Richard Bernhardt	BERNHARDT ET AL 2 PCT	1552
25889	7590	08/02/2010	EXAMINER	
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			GUDIBANDE, SATYANARAYAN R	
			ART UNIT	PAPER NUMBER
			1654	
			MAIL DATE	DELIVERY MODE
			08/02/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10512737	6/16/2005	BERNHARDT ET AL.	BERNHARDT ET AL 2

PCT

COLLARD & ROE, P.C.  
1077 NORTHERN BOULEVARD  
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**EXAMINER**

SATYANARAYANA R.. GUDIBANDE

**ART UNIT****PAPER**

1654

20100723

DATE MAILED:

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**Commissioner for Patents**

The reply filed on 7/6/10 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicants amended the instant claims traversed the election/restriction mailed on 6/3/10 arguing that the applied art does not read on the amended claims stating that "[t]he polymerizable group is located on the lipid molecule of the lipid bilayer on the non-polar hydrocarbon chain of the hybrid particle and is additionally added". This is not persuasive. The claim as amended does not recite that the polymerizable group is added on the 'non-polar hydrocarbon chain of the lipid molecule' but it simple states that "at least one polymeizable group (9) is incorporated in the lipid molecule of the hybrid particle". According to figure 3 of the Lestini, one could clearly discern that the lipid molecule is modified to comprise a 'NHS moiety' which can be used for reaction with a '-NH<sub>2</sub>' functional group and the lipid molecule is further modified to comprise a peptide that represents a polymerizable moiety. Applicants have not elected an invention for examination from groups: I and II, and have not elected species corresponding to 1. lipid, 2. ligand, 3. active substance and 4. a species for the spacer unit. The election/restriction mailed clearly sated the following (page 6): "Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention. The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention or species. Should applicant traverse on the ground that the inventions have unity of invention (37 CFR 1.475(a)), applicant must provide reasons in support thereof. Applicant may submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. Where such evidence or admission is provided by applicant, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention". Hence, the reply filed on 7/6/10 is not fully responsive to the election/restriction mailed on 6/3/10. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satyanarayana R. Gudibande whose telephone number is 571-272-8146. The examiner can normally be reached on M-F 8-4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on

571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Andrew D Kosar/  
Primary Examiner, Art Unit 1654